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BEFORE THE FEDERAL ELECTION COMMISSION

SECRET  
2011 MAR - 1 P 4: 35

In the Matter of )  
MUR 6445 )  
Edward John "Eddie" Izzard )  
Obama for America and Martin H. Nesbitt, )  
as treasurer )  
Obama Victory Fund and Andrew Tobias, )  
as treasurer )  
Hillary Clinton for President and Shelly )  
R. Moskwa, as treasurer )  
Re-Elect Congressman Kuoinich Committee )  
and Donald J. McTigue, as treasurer )  
Colorado Democratic Party and Damon )  
Berry, as treasurer )  
Midwest Values PAC and Thomas Borman, )  
as treasurer )  
Democratic Senatorial Campaign Committee )  
and John B. Poersch, as treasurer )  
Democratic National Committee and )  
Andrew Tobias, as treasurer )

CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY  
SYSTEM

**SENSITIVE**

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FEDERAL ELECTION  
COMMISSION

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System ("EPS"), the Commission uses formal scoring criteria to allocate its resources and decide which cases to pursue. These criteria include, but are not limited to, an assessment of (1) the gravity of the alleged violation, both with respect to the type of activity and the amount in violation, (2) the apparent impact the alleged violation may have had on the electoral process, (3) the legal complexity of issues raised in the case, (4) recent trends in potential violations of the Act, and (5) development of the law with respect to certain subject matters. It is the Commission's policy that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss certain cases, or in certain cases where there

1 are no facts to support the allegations, to make no reason to believe findings. For the reasons  
2 set forth below, this Office recommends that the Commission make no reason to believe  
3 findings in MUR 6445.

4 In this matter, the complainant, Jeff Larson, the chairman of an organization entitled  
5 "Senate Accountability Watch," alleges that "well-known actor and comedian" Edward John  
6 ("Eddie") Izzard is a foreign national, as defined by 2 U.S.C. § 441c and 11 C.F.R. § 110.20,<sup>1</sup>  
7 and is therefore prohibited from making contributions in connection with federal, state or  
8 local elections. Nonetheless, according to Mr. Larson, Mr. Izzard contributed a total of  
9 \$106,400 between October 2008 and October 2010 to the following federal committees:  
10 Obama for America and Martin H. Nesbitt, in his official capacity as treasurer ("OFA  
11 Committee"); Obama Victory Fund and Andrew Tobias, in his official capacity as treasurer  
12 ("OVA Committee"); Hillary Clinton for President and Shelly R. Moskwa, in her official  
13 capacity as treasurer ("Clinton Committee"); Re-Elect Congressman Kucinich Committee and  
14 Donald J. McTigue, in his official capacity as treasurer ("Kucinich Committee"); Colorado  
15 Democratic Party and Damon Berry, in his official capacity as treasurer ("Colorado  
16 Democratic Committee"); Midwest Values PAC and Thomas Borman, in his official capacity  
17 as treasurer ("Midwest Values PAC"); the Democratic Senatorial Campaign Committee and  
18 John B. Poersch, in his official capacity as treasurer ("DSCC"); and the Democratic National  
19 Committee and Andrew Tobias, in his official capacity as treasurer ("DNC") (collectively, the  
20 "respondent committees").

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<sup>1</sup> 2 U.S.C. § 441c(b)(2) and 11 C.F.R. § 110.20(a)(3) define a "foreign national" as, *inter alia*, "any individual who is not a citizen of the United States or a national of the United States . . . and who is not lawfully admitted for permanent residence . . ."

1 According to Mr. Larson, Mr. Izzard provided "false" address information when he  
2 made the contributions, by using U.S. addresses apparently associated with his attorney and  
3 his management company, both of which are located in Los Angeles, California, instead of  
4 using a "foreign" home address. Moreover, Mr. Larson maintains that, to the extent that the  
5 committees solicited contributions from Mr. Izzard, they acted in violation of 2 U.S.C.  
6 § 441e(a)(2), which prohibits the solicitation, acceptance or receipt of contributions from  
7 foreign nationals. After learning of the possibility that Mr. Izzard possessed a valid "green  
8 card," evidencing lawful permanent resident status, the complainant requested that, if the  
9 reports were true, the complaint be withdrawn or dismissed.

10 Responses were filed by Mr. Izzard, the OFA Committee, the OVF Committee, the  
11 Clinton Committee, the Colorado Democratic Committee, Midwest Values PAC, the DSCC,  
12 and the DNC. In his response, and in a sworn declaration attached to the response, Mr. Izzard  
13 states that he was granted permanent resident alien status by the United States government in  
14 January 2006 and that he has "remained in that immigration status" through the present. As  
15 such, Mr. Izzard asserts that section 441e's prohibition against contributions by foreign  
16 nationals does not apply to him. As for the address information that he provided to the  
17 respondent committees, Mr. Izzard asserts that he chose to use the "valid mailing address[es]"  
18 of his manager and lawyer as "an effective means for [him] to obtain correspondence" and  
19 that neither the Federal Election Campaign Act of 1971, as amended (the "Act"), nor the  
20 Commission's underlying regulations, prohibit him from doing so.

21 Except for the Kucinich Committee, which did not respond, the respondent  
22 committees assert that Mr. Izzard is a lawfully-admitted permanent resident alien who

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1 possesses a "green card" and, as such, is permitted to make political contributions. Further,  
2 the committees, observing that 11 C.F.R. § 110.20(g) prohibits the "knowing[]" solicitation,  
3 acceptance, or receipt of foreign-national contributions, state that, at the time that Mr. Izzard  
4 made his contributions, there was no information indicating that he might have been a foreign  
5 national, as defined in 2 U.S.C. § 441e and 11 C.F.R. § 110.20. Accordingly, the respondent  
6 committees request that the Commission find no reason to believe that they violated the Act  
7 or the Commission's regulations.

8 Based on information supplied by the complainant and the respondents, it appears that  
9 Mr. Izzard is a permanent resident alien of the United States. Therefore, this Office  
10 recommends that the Commission find no reason to believe that Mr. Izzard and the respondent  
11 committees violated 2 U.S.C. § 441e and 11 C.F.R. § 110.20.

12 **RECOMMENDATIONS**

- 13 1. Find no reason to believe that Edward John ("Eddie") Izzard violated 2 U.S.C. § 441e  
14 and 11 C.F.R. § 110.20.  
15  
16 2. Find no reason to believe that the following respondents violated 2 U.S.C. § 441e and  
17 11 C.F.R. § 110.20: Obama for America and Martin H. Nesbitt, in his official  
18 capacity as treasurer; Obama Victory Fund and Andrew Tobias, in his official capacity  
19 as treasurer; Hillary Clinton for President and Shelly R. Moskwa, in her official  
20 capacity as treasurer; Re-Elect Congressman Kucinich Committee and Donald J.  
21 McTigue, in his official capacity as treasurer; Colorado Democratic Party and Damon  
22 Berry, in his official capacity as treasurer; Midwest Values PAC and Thomas Borman,  
23 in his official capacity as treasurer; the Democratic Senatorial Campaign Committee  
24 and John B. Poersch, in his official capacity as treasurer; and the Democratic National  
25 Committee and Andrew Tobias, in his official capacity as treasurer.  
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3. Close the file and send the appropriate letters.

Christopher Hughey  
Acting General Counsel

Date

3/7/11

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